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MacKenzie Sigalos, *SEC's Hester Peirce says the U.S. has dropped the ball on crypto regulation*, CNBC, May 25, 2022.

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SEC's Hester Peirce says the U.S. has dropped the ball on crypto regulation

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KEY POINTS

- The U.S. has dropped the ball on crypto regulation, according to Securities and Exchange Commissioner Hester Peirce, and she says the knock-on effects of that failure keep her up at night.
- “There’s a lot of fraud in this space, because it’s the hot area of the moment. ...The other piece that does concern me is the way that we’ve sort of dropped the regulatory ball,” Peirce told CNBC on the sidelines of the DC Blockchain Summit this week.
- “We’re not allowing innovation to develop and experimentation to happen in a healthy way, and there are long-term consequences of that failure,” Peirce said.



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The comments come as the crypto market meltdown continues.

A broad sell-off in digital assets has erased more than half a trillion dollars from the entire market in the space of a few weeks thanks, in part, to turmoil in a subset of cryptocurrencies dubbed stablecoins.

The name comes from the fact that these digital currencies are specifically designed to be stable, with values pegged to the price of real-world assets such as commodities like gold, or fiat currencies like the U.S. dollar. The price moves of stablecoins are seldom worth mentioning because they're not supposed to fluctuate much. But the collapse of UST — one of the more popular U.S. dollar-pegged stablecoins — [had a contagion effect](#) across the entire cryptocurrency ecosystem. Those shock waves have also lit a fire under lawmakers and regulators.

“We can go after fraud and we can play a more positive role on the innovation side, but we have to get to it, we’ve got to get working,” said Peirce.

“I haven’t seen us willing to do that work so far.”

The SEC’s crypto remit

The SEC’s job description when it comes to regulating cryptocurrencies is amorphous.

Wall Street’s top regulator oversees securities, and until recently it was difficult getting Chair Gary Gensler to pin down which of the [more than 19,500 cryptos](#) fall under his jurisdiction, versus the commodity tokens which would be better left to law enforcers at the Commodity



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clarity, saying the SEC has jurisdiction over probably a vast number of the cryptocurrencies in circulation. The SEC chief also conceded that [bitcoin](#) ⁺ was “maybe” not under its purview — which, for him, were strong words on the subject.

Gensler’s recent take on bitcoin’s regulatory jurisdiction runs in parallel to ex-SEC chief Jay Clayton, who [previously said](#) that cryptocurrencies are “replacements for sovereign currencies,” and if you “replace the dollar, the euro, the yen with bitcoin ... that type of currency is not a security.”

The SEC has spent the last few months beefing up its roster and broadening its remit with respect to digital asset regulation.

[In April](#), Gensler said Wall Street’s top regulator plans to register and regulate crypto platforms, and earlier this month, the [agency announced](#) it would almost double the staff responsible for protecting investors in cryptocurrency markets — bringing its Crypto Assets and Cyber team up to 50 dedicated positions.

“The crypto exchanges should come in and register,” continued Gensler on Capitol Hill last week, “Or, frankly, we’re going to continue to bring, use what Congress has given us, in our enforcement and examination functions.”

Gensler also recently told House lawmakers that the rules are “actually quite clear.” If you are raising money from the public and the public anticipates a profit based on the efforts of that sponsor, that’s a security, according to the SEC chair. Gensler says that differs from a commodity, which both lacks an issuer and also has no public buyer anticipating a return based on the efforts of the single party behind the product.

A call for more clarity from Congress

But a lot of participants would welcome more clarity from lawmakers. The SEC’s Peirce tells CNBC that while the SEC is already acting using the authority that it has, she thinks “it would be helpful if Congress came in and said, ‘SEC, here’s the role we think you should be playing. CFTC, here’s the role for you.’”

“One could argue that the SEC would be a good regulator of retail exchanges, if we decide to have a federal regulator, but again, that’s really up to Congress to make that call,” continued



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from us in order to do that.

Sens. Cynthia Lummis, R-Wyo., and Kirsten Gillibrand, D-N.Y., are aiming to provide that clarity with a bill that lays out a comprehensive framework for regulating the crypto industry and divvies up oversight among regulators like the SEC and CFTC. Lummis tells CNBC that they hope this regulatory blueprint for digital assets “hits the sweet spot between regulation that is clear and understood, and does not stifle innovation.”

But until Congress passes some hard and fast rules around how to regulate crypto, the dynamic will remain regulation by enforcement.

Since the SEC launched a unit dedicated to crypto asset oversight in 2017, it has [brought more than 80 enforcement actions against crypto asset offerings and platforms](#).

The agency’s lawsuit against San Francisco-based start-up Ripple could be a bellwether court battle.

[In 2020, the SEC alleged that](#) Ripple, its CEO Brad Garlinghouse and the company’s executive chairman violated securities laws when it sold \$1.4 billion worth of [XRP](#) , the world’s sixth-largest cryptocurrency. Amid the wider sell-off, XRP is down 42% in the last 30 days, according to CoinGecko.

Ripple says its token is not a security — and so goes the continued confusion over which digital coins fall into which regulatory bucket.

The ambiguity at one point also extended to ether, the world’s second-biggest cryptocurrency by market cap, when in 2018, an SEC director said that [“the Ethereum network and its decentralized structure, current offers and sales of Ether are not securities transactions.”](#)

How the Ripple legal battle plays out could be a sign of things to come — and could potentially force the SEC’s hand on defining which of the nearly 20,000 crypto tokens fall under its jurisdiction.



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